

JAN 06 2009

ROBERT H. SHEWELL, CLERK  
BY 

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION

ROY TAYLOR

CIVIL ACTION NO. 05-2041

VERSUS

JUDGE DONALD E. WALTER

WARDEN LOUISIANA STATE  
PENITENTIARY

MAGISTRATE MARK HORNSBY

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**ORDER**

Before this Court is a Motion for Reconsideration [Record Document 21], filed by Plaintiff Roy Taylor ("Taylor") wherein he asks this court to reconsider its April 23, 2008, Order denying Taylor's Certificate of Appealability.

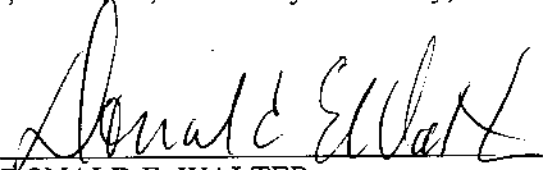
The Federal Rules of Civil Procedure do not recognize a "motion for reconsideration" *in haec verba*. Lavespere v. Niagara Mach. & Tool Works, Inc., 910 F.2d 167, 173 (5<sup>th</sup> Cir. 1990). However, courts have consistently stated that when a motion is so denominated and filed more than ten days after the rendition of judgment, Rule 60(b) is applicable. Id. Rule 60(b) provides a party relief from a final judgment, order, or proceeding, upon a showing of: "(1) mistake, inadvertence, or excusable neglect, (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b), (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party..." or "any other reason that justifies relief."

On April 21, 2008, this Court denied Taylor's Certificate of Appealability for failure to demonstrate a substantial showing of the denial of a constitutional right. [Rec. Doc. 17]. Taylor has

not established any of the Rule 60(b) enumerated factors that would justify granting a Motion to Reconsider.

Accordingly, **IT IS ORDERED** that Taylor's Motion for Reconsideration [Rec. Doc. 21] be and is hereby **DENIED**.

**THUS DONE AND SIGNED**, in Shreveport, Louisiana, this 6<sup>th</sup> day of January, 2009.

  
DONALD E. WALTER  
UNITED STATES DISTRICT JUDGE